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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,269	11/14/2003	Vernon R. Brethour	28549-198910	7955
26694	7590	09/22/2006	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			DEPPE, BETSY LEE	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 09/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/712,269

Applicant(s)

BRETHOUR ET AL.

Examiner

Betsy L. Deppe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 8/3/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 6-32 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Objections*

2. Claim 32 is objected to because of the following informalities: on line 9, the Examiner suggests changing "merit of said" to "merit from said". Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 6-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
5. With regard to claims 6-31, the specification, as originally filed, does not describe "determining placement of said plurality of rake teeth based on comparison of said at

least one figure of merit without considering an initial threshold value" (*emphasis added*) as recited in claim 6, lines 7-9 and claim 19, lines 6-7. Based on the Examiner's understanding of page 102, lines 4-22, the comparison is used to determine which teeth are included in the demodulation step, not to determine placement of rake teeth, as recited. Therefore, the claims contain subject matter that was not described in the specification at the time the application was filed.

6. With regard to claims 6-33 (assuming that claims 6 and 19 should recite determining which teeth are included in the demodulation), the specification does not describe how to compare "without considering an initial threshold value" as recited in claim 6, lines 7-9, claim 19, lines 6-7, and claim 32, lines 9-12. Page 102, lines 8-9 and 14-19 describe a "minimum threshold" and "relative acceptance threshold," respectively. Therefore, the specification, as originally filed, does not describe a comparison step without "an initial threshold value."

7. Claims 6-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

8. With regard to claims 6-31, the specification does not describe "determining placement of said plurality of rake teeth based on comparison of said at least one figure of merit without considering an initial threshold value" (*emphasis added*) as

recited in claim 6, lines 7-9 and claim 19, lines 6-7. Based on the Examiner's understanding of page 102, lines 4-22, the comparison is used to determine which teeth are included in the demodulation step. It is unclear how the result of the comparison affects the placement of the teeth and one of skilled in the art is not enabled to make and/or use the invention.

9. With regard to claims 6-33 (assuming that claims 6 and 19 should recite determining which teeth are included in the demodulation), the specification does not describe how to compare "without considering an initial threshold value" as recited in claim 6, lines 7-9; claim 19, lines 6-7; and claim 32, lines 9-12. Page 102, lines 8-9 and 14-19 describe a "minimum threshold" and "relative acceptance threshold," respectively. Therefore, it is unclear how to make and/or use the claimed invention without "an initial threshold value" as recited.

### ***Claim Rejections - 35 USC § 103***

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 6-11 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono (US Patent No. 6,157,687 cited in the Office Action mailed December 13, 2004) in view of Wang et al. (US Pub. No. 2004/0072553 A1).

12. With regard to claims 6 and 19, Ono teaches sampling circuitry (30) for sampling a plurality of impulse radio signal reflections (i.e. "paths") and figure of merit

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determination circuitry (31). (See the figure; column 3, line 35 - column 4, line 7 and column 4, lines 46-60) However, Ono does not disclose dynamically determining the figure of merit or determining placement of teeth based on comparison of at least one figure of merit.

Wang et al. discloses dynamically determining a figure of merit (i.e. "SIR") and determining placement of the teeth (i.e. "delay positions") based on comparisons of the figure of merit (i.e. "SIR"). (See abstract, Figure 4 and paragraphs [0030] - [0034]) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Wang et al. to that of Ono in order to quickly adapt to changes in signal quality thereby improving data recovery.

13. With regard to claims 7 and 20, Ono in view of Wang et al. discloses the claimed invention since it is inherent/implicit that the output of the rake synthesizer is demodulated in order to recover the transmitted signal.

14. With regard to claims 8, 9, 21 and 22, Ono in view of Wang et al. discloses excluding samples based on at least one figure of merit (SIR). (See Ono, the abstract and column 5, lines 30-50)

15. With regard to claims 10, 11, 23 and 24, Ono in view of Wang et al. discloses updating the figure of merit and performing data demodulation computation based on an updated one of the at least one figure of merit. (See Ono, column 1, lines 53-58) It is inherent/implicit that the SIR is updated.

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16. Claims 12-16 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Wang et al. as applied to claims 6 and 19, respectively above, and further in view of Miura (US Patent No. 6,658,046 B1 cited in the Office Action mailed July 22, 2005).

17. With regard to claims 12 and 25, Ono in view of Wang et al. disclose the claimed invention except for a time offset confined to a corresponding rake tooth placement zone. Miura discloses that each rake finger correlates the received signal with a despreading code with a timing offset value so that the offset values of all rake fingers are different (i.e. the time offset is confined to "corresponding rake tooth placement zone"). (See column 1, lines 17-24) It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Miura with that of Ono in view of Wang et al. in order to quickly establish synchronization.

18. With regard to claims 13 and 26, Ono in view of Wang et al. and Miura disclose the claimed invention since the offset values are varied until correct timing is achieved and correct timing is achieved when a peak correlation value is detected.

19. With regard to claims 14 and 27, Ono in view of Wang et al. and Miura disclose the claimed invention. It is implicit/inherent that the time offset is placed to maximize the energy when the correct timing value for the rake finger is achieved. When there is synchronization, the correlation result is at a peak or a maximum.

20. With regard to claims 15 and 28, Ono in view of Wang et al. and Miura disclose the claimed invention including determining the time offset dynamically. (See Miura, column 1, lines 17-30)

21. With regard to claims 16 and 29, Ono in view of Wang et al. and Miura disclose the claimed invention including determining the time offsets for two or more of the rake teeth in parallel. (See Miura, column 1, lines 17-30)

22. Claims 17, 18, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Wang et al., as applied to claims 6 and 19, respectively, above, and further in view of Saints (US Patent No. 5,903,554 cited in the Office Action mailed December 13, 2004). Ono in view of Wang et al. discloses the claimed invention except for determining a figure of merit based on variance or an approximation of the variance of the samples.

Figure 3 of Saints discloses calculating a noise value based on variance (step 110) and Figure 4 of Saints teaches estimating (i.e. "approximating") the noise value based on variance (step 152). (See column 4, lines 6-15 and column 5, line 66 - column 6, line 13). It would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to use either of the noise calculations taught by Saints in the SIR estimator of Ono since the method of determining the noise does not affect the overall functionality or operation of Ono's rake receiving system. Whether a particular calculation method is used depends upon factors such as desired accuracy of the calculation versus power consumption/speed.



***Conclusion***

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsy L. Deppe whose telephone number is (571) 272-3054. The examiner can normally be reached on Monday, Tuesday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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Betsy L. Deppe  
Primary Examiner  
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